

Ethics Desk Reference



**Research, Education and Economics (REE)
Ethics Office**

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SOME NOTES ABOUT THIS GUIDE

Our goal in issuing this publication is to increase your awareness of ethics-related situations that could occur during your Federal career. The publication was created as a step-by-step guide of procedures addressing situations such as what to do if subpoenaed to testify in a civil suit; rights and prohibitions for lobbying; outside employment; post-employment prohibitions; suggestions to avoid ethics problems; and more. Whether you hold a managerial, supervisory, or non-supervisory position, you are invited to browse through this overview and to use it as a desk reference. Only the most frequently questioned topics are addressed here, so please don't hesitate to contact your Ethics Advisor with additional questions, or visit one or more of the following websites for specific information:

REE Ethics Website

<http://www.afm.ars.usda.gov/hrd/ethics/index.htm>

REE Ethics Advisors & Ethics Assistants

<http://www.afm.ars.usda.gov/hrd/ethics/agency.html>

USDA Office of Ethics Website

<http://www.usda-ethics.net/index.htm>

USDA Office of Ethics - Designated Agency Ethics Official and Staff

<http://www.usda-ethics.net/advisor/index.htm>

U.S. Office of Government Ethics Website

<http://www.usoge.gov/home.html>

Standards of Ethical Conduct for Employees of the Executive Branch

(available in English, Spanish, French & Portuguese)

http://www.usoge.gov/pages/forms_pubs_otherdocs/forms_pubs_other_pg2.html

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CONFLICTING FINANCIAL INTERESTS

Executive branch employees are prohibited by a Federal criminal statute from participating personally and substantially in a particular matter that will affect certain financial interests. Those include the financial interests of --

- the employee
- the employee's spouse or minor child
- the employee's general partner
- an organization in which the employee serves as an officer, director, trustee, general partner or employee, and
- a person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

There are a number of ways in which an employee may deal with a potential conflict of interest. The employee may simply not participate in the matter that would pose the conflict. This is called "recusal." The employee may also obtain a waiver from the agency, sell off or "divest" the conflicting interest, or resign from the conflicting position. Which remedy is appropriate will depend upon the particular circumstances.

Agencies, may by supplemental regulation, prohibit or restrict the holding of certain financial interests by all agency employees or a group of employees, and a few extend such restrictions to the employee's spouse and minor children.

Reference: 18 U.S.C. § 208; 5 C.F.R. § § 2635.401-403.

CRITERIA FOR DESIGNATING POSITIONS/FUNCTIONS FOR CONFIDENTIAL FINANCIAL DISCLOSURE

Background Financial disclosure is established as a mechanism to safeguard employees and their agencies. Through disclosure potential conflicts of interest are identified and avoided at an early stage. Generally, employees identified for disclosure have duties that are likely to affect non-Government entities. Identification of these positions are determined by the duties and responsibilities assigned to each employee.

Definition SPECIAL GOVERNMENT EMPLOYEE (Collaborators, Consultants, Experts and Panel Managers): an employee appointed to serve no more than 130 days in a period of 365 days with or without pay.

Abbreviations

ADODR - Authorized Departmental Officer's Designated Representative

CFR - Code of Federal Regulations

CO - Contracting Officer

COR - Contracting Officer's Representative

COTR - Contracting Officer's Technical Representative

Coverage The following chart contains criteria for identification of required filers.

EMPLOYEES WHO MUST FILE	CRITERIA	REASON FOR FILING
Employees paid 120% of the GS-15 pay rate	Based on level of authority for action taken on behalf of the Government.	Required by the Ethics in Government Act.
Certain employees paid at or below GS-15	File when activities involve making personal and substantial decisions or using significant judgment related to actions listed in the next column.	Employees involved with: <ul style="list-style-type: none"> contracting or procurement; (See Special Note on page 2.) administering or monitoring grants, subsidies, licenses or other benefits (includes ADODR appointments); regulating or auditing any non-Federal entity; or performing other activities having a direct and substantial economic effect on a non-Federal entity.
Collaborators, Consultants, Experts, Panel Managers and other Special Government Employees	All must file with each new appointment and reappointment.	5 CFR 2634.904 requirement.

CRITERIA FOR DESIGNATING POSITIONS/FUNCTIONS FOR CONFIDENTIAL FINANCIAL DISCLOSURE

Volunteers Volunteers are not required to file either the Public or Confidential Financial Disclosure Report.

Authority to Direct Disclosure & Form Required Authority to order disclosure is limited to two offices. Employees are required to file as follows:

EMPLOYEE	OFFICER AUTHORIZED TO ORDER DISCLOSURE	FORM
Above GS-15 pay equivalent Employees with Schedule C appointments (political employees serving as special/confidential assistants) Collaborators, Consultants, Panel Managers and other Special Government Employees paid 120% above the GS-15 rate	Designated or Alternate Agency Ethics Official, USDA Office of Ethics	SF-278, Public Financial Disclosure Report
GS-15 and below or equivalent	Chief of the Employee Relations Branch, Human Resources Division	OGE Form 450, Confidential Financial Disclosure Report
Unpaid Collaborators, Consultants, Panel Managers and other Special Government Employees paid below GS-15 pay equivalent	Chief of the Employee Relations Branch, Human Resources Division	OGE Form 450, Confidential Financial Disclosure Report

Improper Determination Employees who believe they have been improperly identified for Financial Disclosure should formally request a review of their duties by their individual Ethics Advisor. A copy of the current position description must be included with the request for review.

Special Note Only those REE Purchase Card Holders with purchase authority exceeding \$25,000/month are required to file. All ARS and certain CSREES employees **graded GS-13 and above** who serve as Contracting Officer's Representatives/ Technical Representatives (CORs/COTRs) must file yearly reports. CSREES, ERS, and NASS employees required to file will be advised by their Ethics Advisor.

DISCOUNTS

Employees may:	Employees may not:
<p>Take advantage of general Government discounts offered by hotels & car rental companies if:</p> <ul style="list-style-type: none"> the discount is available to <u>all</u> Federal employees, and the discount is available for personal use (<u>not</u> while on official business) 	<p>Masquerade that they are on official travel if they are not otherwise eligible to obtain the benefit of a discount.</p> <p>Request special rates that were negotiated for a specific event (such as a conference) that are exclusively for official use. However, conference organizers may build-in a provision for the extension of that rate a couple of days before or after the event that may be acceptable for personal use (must tell the hotel that you are no longer on official duty).</p>
<p>Take advantage of general Government rate discounts offered by airlines if:</p> <ul style="list-style-type: none"> the discount is available for all Federal employees, and the discount is available for personal use (not while on official business) 	<p>Ask for contract air fares for personal use that are the product of a negotiation between the Government and the carrier exclusively for official use.</p>
Examples - Acceptable	Examples - Unacceptable
<p>1. Employees may accept discounts on automobile rentals or hotel rates that are offered to all Government employees.</p>	<p>1. Employees may not participate in discounts or benefits to subgroups of employees. (Example: free magazine subscriptions to only employees located at Headquarters; or discounts on automobiles if the offer is extended only to National Program Staff scientists).</p>
<p>2. All uniformed military personnel, regardless of rank or other distinguishing characteristics, may accept discounts at a fast food chain.</p>	<p>2. Employees may not participate in discounts or benefits offered to them if their agency has a contractual relationship with the business offering the discount.</p>
<p>If you have any questions, please call the REE Ethics Office on 301-504-1442.</p>	

GIFT EXCHANGE - EXTERNAL

Background	During the year, especially during the fall and winter holiday season, individuals and companies who do business with the Department of Agriculture (USDA) often send or offer unsolicited gifts to employees.
Prohibition	Overall, the Standards of Ethical Conduct prohibit an employee from soliciting or accepting gifts from individuals and/or organizations doing business, or seeking to do business, with USDA. The acceptance of gifts given because of employee's official position is also prohibited.
Definitions	<p><u>GIFT</u>: any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.</p> <p><u>PROHIBITED SOURCE</u> means any person/organization (a majority of whose members are):</p> <ul style="list-style-type: none">• Seeking official action by USDA;• Conducting business or seeking to do business with USDA;• Conducting activities regulated by USDA; or• Having interests that may be substantially affected by the performance or nonperformance of the employee's official duties.
Exclusions	<p>Gifts do not include:</p> <ul style="list-style-type: none">• Coffee, donuts and similar modest items of food and refreshments when offered other than as part of a meal;• Greeting cards and most plaques, certificates and trophies;• Prizes in contests open to the public;• Commercial discounts available to the general public or to all Government or military personnel;• Commercial loans, and pensions and similar benefits;• Anything paid for by the Government, secured by the Government under Government contract or accepted by the Government in accordance with a statute; or• Anything for which the employee pays market value.
Special Note	All external awards of cash and gifts with an aggregate market value greater than \$225 may only be accepted after a written determination is made by the REE Ethics Advisor.

GIFT EXCHANGE - EXTERNAL

Disposition of Gifts Received

When a gift cannot be accepted, the employee can:

- Pay the donor the market value of the gift (However, if the market value of a gift exceeds \$20, employees **may not** pay the difference in order to accept the gift);
- Return the gift with a polite declination; or

If a perishable item, the employee may obtain approval from their Ethics Advisor to:

- Donate the gift to a charity;
- Destroy; or
- Share the gift within the office.

Exceptions

There are eleven exceptions to the prohibition for receiving gifts from entities seeking to do business with USDA. Employees may accept:

NUMBER	EXCEPTION
1	Gifts with a market value of \$20 or less per occasion provided that the aggregate market value of individual gifts received from any one person/organization does not exceed \$50 in a calendar year. Cash may not be accepted as a gift. Cash may only be accepted in connection with awards. (See Special Note on previous page.)
2	Gifts clearly motivated by a family relationship or personal friendship.
3	Commercial discounts and similar benefits offered to groups in which membership is not related to Government employment, or if membership is related to Government employment, where the same offer is broadly available to the public through similar groups or by persons who are not prohibited sources.
4	Certain awards and honorary degrees (see Special Note on next page).
5	Gifts resulting from the outside business activities of employees and their spouses.
6	Travel and entertainment in connection with employment discussions.
7	Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information at the event.
8	Free attendance provided by the sponsor of a widely attended gathering of mutual interest to a number of parties where the necessary determination of agency interest has been made.
9	Invitations to social events extended by persons who are not prohibited sources, provided no one is charged a fee to attend the event.
10	Certain gifts of food and entertainment in foreign areas (see the Standards of Ethical Conduct, Section 2635.204(i), Meals, Refreshments, and Entertainment in Foreign Areas).
11	Gifts accepted by the employee under a specific statute, or pursuant to a supplemental agency regulation.

GIFT EXCHANGE - INTERNAL

Background During the year, especially during the fall and winter holiday season, employees enjoy exchanging gifts among themselves.

General Prohibition The Standards of Ethical Conduct prohibit employees from giving or soliciting for gifts to supervisors or accepting gifts from lower-paid employees, unless the individuals are personal friends who are not in a superior-subordinate relationship.

Definitions GIFT: any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.

OFFICIAL SUPERIOR: anyone whose official responsibilities involve directing or evaluating the performance of the employee's official duties. The term is not limited to immediate supervisors, but applies to officials up the supervisory chain.

SOLICIT: to request contributions by personal communication or by general announcement.

VOLUNTARY CONTRIBUTION: a contribution (of an amount determined by the contributing employee) except in instances where the employee freely chooses to pay a proportionate share of the cost of a luncheon, reception, or similar event. Regardless, voluntary contributions are given freely and without coercion.

Exceptions Giving and receiving gifts between employees is allowable as follows:

NUMBER	EXCEPTION
1	Items, other than cash, aggregating \$10 or less per occasion.
2	Food and refreshments shared in the office.
3	Personal hospitality at a residence.
4	Appropriate hostess gifts.
5	Leave sharing under Office of Personnel Management Regulations.
6	Gifts given in recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or upon occasions that terminate a subordinate-official superior relationship such as retirement, resignation, or transfer. In these instances, an employee may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to an official superior, and an employee may make a voluntary contribution.

LOBBYING

Background	<p>From time to time employees may wish to engage in lobbying activities. While Title 5, Subchapter II, Section 7211, gives employees the right to lobby as private citizens, Title 18, Section 1913, prohibits the use of Government time or resources to do so. Congress created the Title 18 prohibition to prevent the use of appropriated funds to circumvent its decisions by influencing constituents and voters.</p> <hr/>
Definitions	<p><u>LOBBYING</u>: attempting to influence legislators.</p> <p><u>DIRECT LOBBYING</u>: calling or writing a member of Congress (or congressional staff).</p> <p><u>GRASS ROOTS LOBBYING</u>: contacting members of interest groups or the public and urging them to call or write their Members of Congress.</p> <p>Grass roots lobbying can appear as a:</p> <ul style="list-style-type: none">• speech• press release• publication• report <p>Its identifying characteristic is the explicit or implicit message: "write or visit your Member of Congress."</p> <hr/>
Basic Rule	<p>Direct or grass roots lobbying on an employee's own time carries no legal penalties.</p> <p>Lobbying on Government time and/or using Government resources is prohibited.</p> <p>Use of Government appropriated funds for lobbying is prohibited by law.</p> <hr/>
Penalties	<p>Using Government appropriated funds for "grass roots" and direct lobbying is a crime punishable by fines, incarceration, and administrative penalties.</p> <hr/>
References for Procedures	<p>For procedures to follow when speaking to congressional staff in the course of official duties, refer to the following Policies and Procedures (Directives):</p> <ul style="list-style-type: none">• Policy and Procedure (Directive) 125.1, Legislative Programs, Reports, and Testimony; and• Policy and Procedure (Directive) 125.3, Documenting Official Congressional Conversations. <hr/>
Contacts for Additional Information	<p>If you have any general questions with regard to lobbying activities, call your Agency Ethics Advisor identified at the front of this guide. For questions relating to guidelines on congressional testimony, contact the Legislative Affairs Office on 202-720-4465.</p>

MISUSE OF GOVERNMENT PROPERTY

Use of Government Resources

The use of Government resources, including equipment and duty hours toward the accomplishment of outside work, is prohibited. Please review REE Policy & Procedure, 253.4, Use of Information Technology Resources, for specific information on what is considered permissible usage of Government equipment on personal time.

You **may not** use Government purchasing authority (including your official Government-issued credit card) for personal acquisitions, even though you reimburse the Government.

When leaving Federal service, you may not remove Government property or files; nor may you use Government copiers to make copies of files to take with you.

Government Motor Vehicles

You may not willfully use or authorize the use of a Government-owned or leased passenger motor vehicle or aircraft for other than official purposes.

Chain Letters

Chain letters are generally photocopied letters addressed to no one in particular and usually contain promises of good fortune and threats of disaster. They are not only an imposition for fellow employees, they also violate the Standards of Ethical Conduct which prohibits the misuse of Government time, facilities, and property. [See 5 CFR 2535.704 & 2635.705] Chain letters also come in e-mail versions usually addressed to a string of people. If you receive a chain letter via e-mail on the job, please follow procedures outlined in REE P&P 253.4 - Use of Information Technology Resources.

Franked Mail & Official Stationery

You are prohibited from using official Government envelopes (with or without applied postage) or official letterhead stationery for personal business. This includes mailing your SF-171 or OF-612 job applications. Willful violation of the prohibition against using franked (postage paid) envelopes must, by law (Title 18 U.S.C. §1719), result in a fine of not more than \$300.

Letters of Recommendation

Sometime in the course of your employment, you may be asked by a co-worker or a subordinate for a letter of reference or recommendation for a job in the private sector. It is not permissible to use official agency letterhead or your official title in signing the letter so as not to imply that the agency or the Government endorses your co-worker's or subordinate's personal activities. In writing the letter of recommendation, it may be appropriate to refer to the official position of the person requesting the letter of recommendation in the body of the letter.

However, you may sign a letter of recommendation using your official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom you have dealt in the course of Federal employment or whom you are recommending for Federal employment. [See 5 C.F.R. 2635.702(b)]

MISUSE OF POSITION

Providing help	If your friends or relatives have any kind of dealing with USDA, you cannot use your position to try to intercede on their behalf and help them.
Endorsements	You cannot use your position to endorse any product, service or company, except where it is part of your official duties to do so (e.g., a Foreign Agricultural Service official meeting with foreign officials to promote purchase of American products).
Fundraising	<p>Unless permitted by law, Federal Employees may not engage in any form of fundraising activities during official time or on Federally owned or leased property. This includes, but is not limited to, conducting raffles, lotteries, bake sales, carnivals, athletic events, etc. Employees may engage in fundraising as a private citizen provided they do not use their official title or position while participating in the activities. [See 5 C.F.R. 2635.808]</p> <p>Absent statute, Executive Order, regulation, or Office of Personnel Management (OPM) approval, you may not engage in official fundraising outside the Combined Federal Campaign (CFC). No other fundraising drive may be conducted without the authority of the Director, OPM, through the Director of the Human Resources Division, AFM. [See 5 C.F.R. Part 950]</p> <p><u>Exclusions:</u> Fundraising may be conducted outside the CFC in the following instances:</p> <ul style="list-style-type: none">! Emergencies and Disasters (with OPM approval);! Solicitation of Employees for the Benefit of Employees (through agency approved employee organizations); or! Child Care Centers located at Federal installations (without prior authorization from OPM).
Inside Information	You cannot use non-public information (information you receive in the course of your job that is not available to the general public) for the financial gain of yourself or others.
Solicitation	<p>Canvassing for sales, or selling, any article (including but not limited to candy or other items for schools or charity; kitchenware or other home furnishings; cosmetics; or any other items whatsoever) in person, or by distributing or posting literature, advertising matter, or any other graphic matter, in or on a Government owned or leased property is prohibited. [See USDA Employee Responsibilities and Conduct, Personnel Bulletin 735-1, Subpart B]</p> <p>Soliciting money for charity, commercial or political soliciting, vending of all kinds, displaying or distributing commercial advertising, or collecting private debts on REE controlled property is prohibited. [See REE P&P 240.3, Physical Protection, Security, and Conduct while on REE Facilities]</p>
Use of Official Time	<p>You may not use official time other than in an honest effort to perform official duties.</p> <p>You shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of their official duties.</p>

OUTSIDE EMPLOYMENT/ACTIVITY

Background

On October 2, 2000, the U.S. Department of Agriculture published the final rule in the Federal Register that requires all employees who file a public or confidential financial disclosure report to seek and obtain prior approval to engage in outside employment and activities. The requirement does not prevent employees from seeking outside employment, but helps to prevent employees from getting themselves into situations where it might be perceived by a reasonable person that a conflict may exist.

Required Form

Employees must use form REE-101, "Application for Approval to Engage in Non-Federal Employment or Activity." This form is available in Adobe Acrobat format on the Ethics Forms page of the REE Ethics Website at:
<http://www.afm.ars.usda.gov/hrd/ethics/ethicsforms.htm>

Definitions

CONFLICT OF INTEREST: A situation in which an employee's official actions or duties could affect his/her private interests.

FARMING: Any activity outside Federal employment, the purpose of which is to produce agricultural goods or commodities for sale.

FOREIGN EMPLOYMENT: Any personally negotiated work with an organization whose headquarters are located outside the United States. Foreign employment also includes work with a foreign government, the political subdivision of a foreign government, including a public university or commercial enterprise owned or operated by a foreign government.

HONORARIUM: Payment of money or anything of value for services rendered.

LOSS OF IMPARTIALITY: A situation where the circumstances could lead a reasonable person to question an employee's ability to act fairly on an official matter even though an actual conflict of interest does not exist.

OUTSIDE ACTIVITY/EMPLOYMENT: Any non-Federal work, service, or activity performed by an employee other than in the performance of official duties. These situations include, but are not limited to, such activities as writing, editing, publishing, teaching, lecturing, consulting services, self-employment, working for another employer, management or operation of a private business, personally owned business, partnership, corporation, or any work performed with or without compensation.

PROHIBITED SOURCE: Any person/organization (a majority of whose members are):

- Seeking official action by USDA;
- Conducting business or seeking to do business with USDA;
- Conducting activities regulated by USDA; or
- Having interests that may be substantially affected by performance or nonperformance of the employee's official duties.

OUTSIDE EMPLOYMENT/ACTIVITY

Potential for a Conflict of Interest

Below is a list of activities/employment where a conflict of interest may occur:

- Farming
 - Adjunct and full professor appointments
 - Officer or fiduciary positions in professional associations
 - Writing, editing, publishing
 - Teaching, speaking, and writing
 - Consulting services
 - Self-employment
 - Management or operation of a private business, partnership or corporation
-

Unlikely to Create a Conflict of Interest

Below is a list of activities where a conflict of interest is unlikely to exist:

- Membership in or volunteer work with:
 - charitable, religious, social, fraternal, recreational, civic or public service
 - similar nonbusiness and nonprofit organizations
- Membership (only) in professional organizations
- Performance of duties in the:
 - Armed Forces, reserve, and national guard
- Labor organization activities

Special Note: Except in very limited instances, employees are prohibited from representing non-Federal entities back to the Federal Government.

Criteria for Consideration of Outside Work

Any employee about to engage in an outside employment/activity should use the following criteria to determine whether or not their outside work will create a conflict of interest or the appearance of favoritism (loss of impartiality).

NUMBER	CRITERIA
1	<p>Considering the mission, your official duties and your intended outside work, review the following. If a "yes" answer to any, discuss the outside activity with your Ethics Advisor.</p> <ul style="list-style-type: none"> • Are you engaged in Government work that involves/affects the prospective employer? • Does your prospective employer do business with/work with the agency? • Will your work with the outside employer involve work they are doing for/with the Government (e.g. cooperative agreements/grants, etc.) • Are you expected to use official unpublished research or confidential information? • Are you expected to negotiate matters on behalf of your prospective employer back to the Federal Government? • Are you considering employment with a foreign government? • Do you wish to engage in foreign employment while officially serving abroad? <p>Note: If foreign work is contemplated, see "Foreign Employment Prohibitions" section.</p>
2	<p>Overall, do you have enough information about the outside work to ensure adequate defense against a potential accusation of a conflict of interest?</p> <p>REMEMBER, YOU ARE PERSONALLY ACCOUNTABLE FOR ENSURING THAT YOUR ACTIVITIES COMPLY WITH THE ETHICS LAWS AND REGULATIONS.</p>

OUTSIDE EMPLOYMENT/ACTIVITY

Criminal Prohibitions

Overall, ethics rules are traceable to criminal prohibitions found in Title 18 of the United States Code. Violations of Title 18 carry potential fines, imprisonment, or both for all employees regardless of their title, series, or grade. Sections of Title 18 applicable throughout Federal employment follow:

CITATION	PROHIBITION
18 U.S.C. 201 (Bribery)	Offering, giving, accepting, or requesting something of value to influence an official act.
18 U.S.C. 203 (Compensated Representation)	Directly or indirectly demanding, seeking, receiving, accepting, or agreeing, to receive compensation (honoraria) for representational services related to any matter in which the United States is a party or has a direct and substantial interest.
18 U.S.C. 205 (Uncompensated Representation)	Acting as agent or attorney for anyone before the Government in any matter in which the United States is a party or has a direct and substantial interest.
18 U.S.C. 208 (Conflict of Interest)	Participating in a particular matter affecting the financial interest of: <ul style="list-style-type: none">• The employee or the employee's immediate family members;• A non-Federal source for which the employee serves as officer, director, or employee; or• A non-Federal source with which the employee is negotiating for employment or has an arrangement regarding future employment.
18 U.S.C. 209 (Dual Compensation)	Receiving salary/compensation for official duties from a non-Federal source.

Farming

Basically, all REE employees may engage in farming activities. However, given the overall mission of USDA, employees must remain sensitive to avoiding even a perception of impropriety while engaging in farming activities.

USDA employees may not actively participate in meetings and functions concerned with the establishment of farm organizations or with recruiting members for existing organizations. (See Department of Agriculture, Human Resources Management, Employee Responsibilities and Conduct Bulletin: 735-1 for specifics of the prohibition.)

Following procedures established for the general public, REE employees may participate in any Department farm program.

OUTSIDE EMPLOYMENT/ACTIVITY

Foreign Employment Prohibitions

Occasionally, some employees are invited to work for a foreign entity. Employees considering foreign employment should be aware of the following prohibitions:

Emoluments Clause of the Constitution of the United States - Prohibits employees from accepting any outside employment with a foreign government or the political subdivision of a foreign government, including a public university or commercial enterprise owned or operated by a foreign government. The ban does not apply to a foreign privately owned corporation or an international organization.

Foreign Gifts and Decorations Act (5 USC 7342) - Prohibits employees from accepting a gift exceeding \$285 in value from a foreign government or an international organization whose membership is composed of any unit of foreign government. A prohibited gift even includes travel expenses exceeding \$285 in value unless the travel takes place entirely outside the United States. The restriction extends to the spouse and dependents of the employee. The Agency can, however, accept travel and related expenses from a foreign government as part of U.S. Government duties on behalf of the employee.

Foreign Agents (18 USC 219) - Prohibits an employee from acting as an agent of a foreign principal registered under the Foreign Agents Registration Act unless the head of the agency certifies that the employment is in the national interest.

Department of Agriculture, Human Resources Management, Employee Responsibilities and Conduct Bulletin: 735-1, Section 207(e) -

Prohibits employees who are serving abroad from having an interest in any business enterprise or engaging in any profession in any country to which assigned.

Use of Government Resources

The acceptable and unacceptable use of Government resources, including copiers, telephones, E-mail, facsimile machines, and Internet services, can be found in REE P&P 253.4, Use of Information Technology Resources, which can be found at: <http://www.afm.ars.usda.gov/ppweb/>

Contacts for Additional Information

For additional information, including assistance with determining whether or not your accomplishment of outside work could create a conflict of interest or raise concerns about a loss of impartiality in performing your official duties, call your Agency or Area Ethics Advisor or the REE Ethics Office.

SEEKING EMPLOYMENT & POST-EMPLOYMENT RESTRICTIONS

Background	All separating employees are subject to certain post-employment restrictions. The following is a brief overview of restrictions faced by Agency employees.
Definitions	<p><u>PARTICULAR MATTER (for individuals currently employed by the Government)</u>: work related to, or stemming from, the employee's Government job (i.e. any investigation, application, request for ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding).</p> <p><u>PARTICULAR MATTER (for purposes of post-employment considerations)</u>: work related to, or stemming from, the former employee's Government job (i.e. any investigation, application, request for ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding involving a specific party).</p> <p><u>PROCUREMENT-RELATED WORK</u>: the official work of any present or former employee who, by virtue of his/her position, has or had access to contract bid or proposal information or source selection information.</p> <p><u>REPRESENTATION</u>: knowingly communicating with, or appearing before, a current employee of the United States, on behalf of another person/organization with the intent to influence the Federal employee's/agency's actions in a specific matter.</p> <p><u>SEEKING EMPLOYMENT</u>: to make arrangements for, settle, or conclude a transaction for non-Federal work. For questions regarding the parameters of commencing and terminating employment negotiation, see the Standards of Ethical Conduct, Sec. 2635.603, Definitions, or call your Ethics Advisor.</p> <p><u>SENIOR PERSONNEL</u>: employees paid at or above Executive Schedule Level V.</p> <p><u>SUBSTANTIAL PARTICIPATION</u>: personal and significant involvement with a particular matter involving the following processes: decision, approval, disapproval, recommendation, the rendering of advice, investigation, etc. Significant involvement requires more than official responsibility over a particular matter. (For determinations of substantial participation, call your Ethics Advisor.)</p>
Seeking Future Employment Prohibition	Employees may not take official action on a particular matter affecting the financial interests of an organization with which they are seeking or have an arrangement for a job. (Employees should review the Standards of Ethical Conduct, Section 2635.604, Disqualification While Seeking Employment, prior to negotiating prospective employment with any organization dealt with in their official capacity.)

SEEKING EMPLOYMENT & POST-EMPLOYMENT RESTRICTIONS

Restrictions After Leaving the Government

The following statutory prohibitions prevent Government employees from "switching sides" after leaving the Government.

LIFETIME BAN: prohibits an employee from representing anyone before the Government on a particular matter involving specific parties in which the employee participated personally and substantially while with the Government.

ONE-YEAR BAN: prohibits senior personnel (employees paid at or above Executive Schedule Level V) from making a communication with the intent to influence any office or employee of the Department on a Government matter.

TWO-YEAR BAN: prohibits an employee from representing another person on a particular matter involving specific parties which was pending under the employee's supervision/responsibility for the last year of the employee's Government service.

Procurement Related Restrictions

Separated employees are prohibited from participating on behalf of a contractor in negotiations that they participated in personally and substantially, or personally approved and reviewed for the Government as follows:

IF FEDERAL EMPLOYMENT ENDED:	THEN THE EMPLOYEE IS PROHIBITED FROM CONTRACT PARTICIPATION FOR A PERIOD OF:
before January 1, 1997	2 years
on or after January 1, 1997, and the contract is in excess of \$10,000,000	1 year

Penalties

A former employee who violates the post-employment restrictions is subject to the following penalties.

NUMBER	PENALTY
1	Imprisonment not to exceed 5 years/or a fine not to exceed \$50,000 for each violation, or the amount the person received for the prohibited conduct, whichever is greater.
2	Injunction prohibiting a former employee from engaging in conduct that violates the post-employment restrictions.

Special Note/Contact for Additional Information

THIS INFORMATION SERVES AS A GUIDE ONLY. For informal assistance in interpreting and applying post-employment restrictions, call your individual Ethics Advisor or the REE Ethics Office. For information regarding procurement-related restrictions, see the Federal Acquisition Regulation, Part 3 - Improper Business Practices and Personal Conflicts of Interest.

SUGGESTIONS TO AVOID ETHICS PROBLEMS

Action

Here are some suggestions to avoid problems with conflict of interest and loss of impartiality.

NUMBER	ACTION
1	Avoid situations where your official actions affect or appear to affect your private interests, financial or non-financial.
2	Avoid making official decisions or taking official action in matters in which you, your spouse, minor child or partner has a financial interest. (This also applies if an organization in which you serve as an officer, director, trustee, partner, employee or prospective employee has a financial interest with the Department.)
3	Do not use official confidential information for personal gain. Do not make an investment that is likely to conflict with your official duties or that is based on confidential information. Be sensitive to the statutory prohibition on the misuse of information involving national security, trade secrets, private individual and Government procurement.
4	Avoid decisions/actions that appear to give another party an unfair advantage.
5	Avoid the appearance of being controlled or influenced by private or outside interests.

Resolutions for Conflict of Interest

Options for the resolution of a conflict of interest include:

- Disqualifying yourself from taking official action that could affect your personal interest;
- Requesting a waiver; or
- Divesting yourself of a conflicting financial interest. (Contact your Ethics Advisor or the REE Ethics Office before volunteering to divest.)

Contact

If you have a potential conflict of interest, or wish to ask questions regarding conflict of interest or loss of impartiality, call your individual Ethics Advisor or the REE Ethics Office.

TEACHING, SPEAKING & WRITING

Policy	Generally, employees may not receive compensation from any source other than the Federal Government for a teaching, speaking or writing activity that relates to the employee's official duties.
Definition	<p>Teaching, speaking or writing activities relate to official duties if any of the following apply:</p> <ul style="list-style-type: none">! The activity is undertaken as part of the employee's official duties;! The invitation to engage in the activity was extended to the employee primarily because of an official position rather than expertise in a particular subject matter;! The invitation to engage in the activity, with or without compensation, was extended, directly or indirectly, by a person who has interests that may be affected substantially by the performance or nonperformance of the employee's official duties;! The information conveyed through the activity addresses ideas or official data that are non-public information;! The subject of the activity deals in significant part with:<ul style="list-style-type: none">▸ Any matter to which the employee presently is assigned or to which the employee has been assigned during the previous one-year period;▸ Any ongoing or announced policy, program or operation of the agency; or▸ In the case of a non-career employee (as defined in 5 CFR 2636.303(a), the general subject matter, area, industry, or economic sector primarily affected by the programs and operation of his/her agency.
Exceptions for Teaching Certain Courses	<p>With agency approval, an employee may accept compensation for teaching a course requiring multiple presentations by the employee if the course is offered as part of:</p> <ul style="list-style-type: none">! The regularly established curriculum of:<ul style="list-style-type: none">• An institution of higher education as defined at 20 U.S.C. 1141(a);• An elementary school as defined at 20 U.S.C. 2891(8);• A secondary school as defined at 20 U.S.C. 2891(21); or! A program of education or training sponsored and funded by the Federal Government or by a state or local government which is not offered by an entity described above.
Acceptance of Travel Expenses	Although employees may not accept compensation in connection with a teaching, speaking or writing activity that relates to their official duties, they may in such cases accept travel expenses paid for by a non-Federal source if they are not "covered non-career employees." This provision is a direct result of a recent District Court decision on the <i>Sanjour</i> case.

TEACHING, SPEAKING and WRITING

Reference to Official Position	<p>An employee may not use or permit the use of their official title or position to identify themselves in connection with the teaching, speaking or writing activity or to promote any book, seminar, course, program or similar undertaking. However, an employee may:</p> <ul style="list-style-type: none">! Include title or position as one of several biographical details when such information is given to identify them in connection with teaching, speaking or writing, provided that the title or position is given no more prominence than other significant biographical details;! Use title or position in connection with an article published in a scientific or professional journal, provided the title or position is accompanied by a reasonably prominent disclaimer satisfactory to the agency stating that the views expressed in the article do not necessarily represent the views of the Agency or the United States;! If ordinarily addressed using a general term of address, such as "The Honorable," or a rank, such as a military or ambassador rank, the employee may use that term of address or rank in connection with teaching, speaking or writing.
Important Note	<p>Due to the complexity of this subject matter, this section only provides general policy information on the rules governing teaching, speaking and writing activities. If you have a complex issue, you are strongly encouraged to seek the assistance of your Agency or Area Ethics Advisor, or refer to the regulations and examples governing teaching, speaking and writing activities at 5 C.F.R. 2635.807. ARS employees may also wish to review the following Policies and Procedures: 152.1 - Procedures for Publishing Manuscripts and Abstracts with Non-USDA Publishers (Outside Publishing), and 152.2 - Authorship of Research and Technical Reports and Publications.</p>

TRAINING - ANNUAL

Background	<p>Annual Ethics training for certain employees of the Executive Branch was first required by the Office of Government Ethics (OGE) in 1993. With the implementation of the 1993 mandate, each year agencies are required to provide Ethics training including: new topic discussion; review of Executive Order 12674; supplemental agency regulations; and statutory prohibitions (Title 18 U.S.C.).</p> <hr/>
Required Attendees	<p>The following employees are required to receive Ethics training each year:</p> <ul style="list-style-type: none">• Public and Confidential Financial Disclosure Filers• Authorized Departmental Officer's Designated Representatives (ADODRs)• Collaborators, Consultants, Panel Managers and other Special Government Employees• Contracting Officers (COs)• Contracting Officer's Representatives (CORs)• Contracting Officer's Technical Representatives (COTRs)• Employee Relations Specialists• Labor Relations Specialists• Purchase Card Holders <hr/>
Employee Responsibility	<p>To assist the Agency with compliance requirements, any employee who meets the criteria to receive Annual Ethics training, but not formally asked to do so when training is announced, should immediately contact their individual Ethics Advisor.</p> <hr/>
Additional Information	<p>To find additional information on Annual Ethics Training, please visit the REE Ethics Website.</p> <hr/>

TRAINING - ETHICS ORIENTATION

Background Ethics Orientation training for all newly appointed employees of the Executive Branch was first required by the Office of Government Ethics (OGE) in 1993.

Training Material Content Each training package should contain the following material:

- Standards of Ethical Conduct for Employees of the Executive Branch (including the Principles of Ethical Conduct contained within the Standards);
- REE Ethics Desk Reference
- Criminal Statutes for Ethics Violations @ Title 18 USC
- USDA Ethics Rules at a Glance - Highlights (April 1997)
- Supplemental Standards of Ethical Conduct for Employees of USDA, dated 10/02/00
- List of Agency Ethics Advisors & Ethics Assistants; and
- USDA Departmental Bulletin 735-1 - Employee Responsibilities and Conduct.

Supervisory Responsibility A list of supervisory responsibilities follows.

Number	Responsibility
1	Ensure that all incoming employees receive an Orientation Training package from their servicing personnel office and are given a minimum of one hour to review material within 90 days of the date of their entrance on duty. If training material is not available, contact your Ethics Advisor.
2	Make a copy of the "Standards of Ethical Conduct for Employees of the Executive Branch" readily accessible in each immediate office.
3	During each employee's performance review: <ul style="list-style-type: none">• Confirm that the employee has copies of employee responsibilities and conduct guides; and• Resolve employee responsibility and conduct questions.

Employee Responsibility Each new Agency employee is responsible for taking a minimum of one hour to review an Ethics Orientation package provided by their administrative staff offices. Any questions regarding ethics rights or obligations should be addressed to either the employee's individual Ethics Advisor or the REE Ethics Office.

The names, addresses, and telephone numbers of all Ethics Advisors are included in the training package, & can also be found on the REE Ethics Website under General Information - Contacts.

Online Training If a live ethics briefing is not possible, please have the new employee complete the USDA Ethics online training modules at: <http://www.usda-ethics.net/training>

TRAVEL - ETHICS CONSIDERATIONS FOR THE ACCEPTANCE OF TRAVEL FUNDS FROM NON-FEDERAL SOURCES

Background

Occasionally, an agency is offered funds for reimbursement of official travel and subsistence from a non-Federal source for employee attendance at meetings or similar functions. The General Services Administration and the Office of Government Ethics identified certain conditions under which agencies may accept travel funds. These conditions are further clarified by USDA.

Receipt of travel funds from a **FEDERAL** source is not an ethics issue because generally inter-Governmental activities and exchanges do not pose conflicts for purposes of the ethics rules.

Below are considerations and procedures for the acceptance of travel funds from all **NON-FEDERAL** sources.

General Prohibition

USDA agencies may not accept travel or expenses for travel from prohibited sources unless travel is conducted in accordance with a cooperative agreement or cooperative exchange.

In those instances where acceptance is possible, **EMPLOYEES ARE PROHIBITED FROM ACCEPTING CASH OR CHECKS MADE PAYABLE TO THE TRAVELER.**

CSREES Prohibition

Acceptance of travel funds from domestic non-Federal sources is not authorized. CSREES employees should only use this guide when considering the acceptance of travel funds from foreign sources.

Definitions

COOPERATIVE AGREEMENT: a relationship between the Agency and eligible Federal or non-Federal entity where:

- All parties involved have a mutual interest in the agreement's objectives;
- All parties agree to contribute resources to accomplish the research objectives; and
- All parties participate in the cooperative work to be accomplished.

DECIDING OFFICIAL: agency employee identified at the highest level possible to ensure adequate analysis of travel fund offer. Examples of Deciding Officials include: Administrator, Deputy Administrator, Associate Administrator, Staff Director, Division Director, and Agency Ethics Advisor.

EMPLOYEE: an appointed officer or employee of USDA including Special Government Employees (Collaborators, Consultants and Panel Managers). The term excludes independent contractors.

TRAVEL - ETHICS CONSIDERATIONS FOR THE ACCEPTANCE OF TRAVEL FUNDS FROM NON-FEDERAL SOURCES

Definitions (Continued)

MEETING OR SIMILAR FUNCTION: a conference, seminar, speaking engagement, symposium, training course, or similar off-site event. **The term excludes meetings or events required to carry out an agency's statutory or regulatory functions, such as: investigations, inspections, audits, site visits, negotiations, or litigation. Also excluded are promotional vendor training or other meetings held for the primary purpose of marketing the non-Federal source's products.**

NON-FEDERAL SOURCE: a person or organization other than the Federal Government. The term includes any individual, private or commercial entity, non-profit organization or association or international or multinational organization (irrespective of whether an agency holds membership in the organization or association), foreign, state, or local government and the government of the District of Columbia.

PAYMENT: funds paid by a non-Federal source for travel, subsistence, and related expenses by check or similar instrument to an agency. **(NOTE: Employees may not personally accept and retain payments. All funds received must immediately be submitted to the Agency.)**

PAYMENT IN KIND: goods, services, or other benefits provided directly to the traveler from a non-Federal source for travel, subsistence, and related expenses in lieu of funds paid to an agency.

PROHIBITED SOURCE: any person/organization (a majority of whose members are):

- Seeking official action by USDA;
- Conducting business or seeking to do business with USDA;
- Conducting activities regulated by USDA; or
- Having interests that may be substantially affected by performance or nonperformance of the employee's official duties.

Conditions For Acceptance

The Agency must establish the following conditions to assure that funds accepted from non-Federal sources comply with statute and regulation.

Number	Condition
1	Deciding Officials must be appointed at the highest level possible to ensure adequate consideration and review of each offer and acceptance.
2	Documentation of Deciding Official's determination should be evident with each offer and acceptance.

TRAVEL - ETHICS CONSIDERATIONS FOR THE ACCEPTANCE OF TRAVEL FUNDS FROM NON-FEDERAL SOURCES

Guidelines For Determining Acceptance

The Deciding Official must make the following four determinations before accepting payment from a non-Federal source.

(CSREES Deciding Officials may use these guidelines for funds offered by foreign sources only. See Preceding CSREES Prohibition).

Number	Determination
1	Employee attendance benefits the Agency.
2	Payment is for attendance at a meeting or similar function.
3	Payment is for travel related to the employee's official duties.
4	Payment is from a non-Federal source that is not disqualified on conflict-of-interest grounds. (See Travel - Conflict-of-Interest Analysis on following page.)

References

Please review the following REE procedures for additional information on the Acceptance of Travel Funds From a Non-Federal Source:

- REE Policy & Procedure 341.2, Acceptance of Travel Expenses From Non-Federal Sources, dated November 22, 1999; and
- REE Bulletin 00-305, Acceptance of Travel Expenses From Non-Federal Sources, dated March 13, 2000.

Required Forms

On January 7, 2000, the USDA Office of Ethics announced the implementation of Ethics Issuance 99-2, Acceptance of Travel Expenses from Non-Federal Sources. With this Issuance came the requirement to complete a *Conflict of Interest Analysis* form in addition to the *Approval and Report of Travel Funds Received from Non-Federal Sources* form, which had been modified. These forms can be found on the REE Ethics Website at the following location:

<http://www.afm.ars.usda.gov/hrd/ethics/travel.html>

TRAVEL - CONFLICT-OF-INTEREST ANALYSIS

Background

Conflict-of-interest analysis must be conducted by the Deciding Official prior to the Agency's accepting funds from non-Federal sources regardless of whether or not the non-Federal source is identified as a prohibited source or has established a cooperative agreement.

Prohibition

Payment from any non-Federal source shall not be accepted if the Deciding Official determines that acceptance would cause the public, with knowledge of all the facts, to question the integrity of USDA programs or operations.

Acceptance of payment from a prohibited source is also disallowed unless offered in accordance with a cooperative agreement/cooperative exchange.

Considerations for Conflict-of-Interest Analysis

The following considerations shall guide the Deciding Official when conducting conflict-of-interest analysis:

Number	Consideration
1	The identity of the non-Federal source;
2	The purpose of the meeting or similar function;
3	The identity of other expected participants;
4	The nature and sensitivity of any matter pending at USDA affecting the interests of the non-Federal source;
5	The significance of the employee's role in any such matter; and
6	The monetary value and character of the travel benefits offered by the non-Federal source.

Special Note

The Deciding Official may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the Agency to qualify acceptance of offered payment by, for example, authorizing attendance at only a portion of the event or limiting the type of benefits that may be accepted.

TRAVEL - ACCEPTANCE FOR ACCOMPANYING SPOUSE

Background

When the employee is attending a meeting or similar function in an official capacity, there are occasions where the Agency may accept payment from a non-Federal source for the travel of an accompanying spouse.

Conditions

In order for the Agency to accept payment, the following conditions must be met:

Number	Condition
1	The spouse must travel to the same event as the employee.
2	The spouse must travel pursuant to an official travel authorization.
3	<p>Prior to issuing a travel authorization, the Deciding Official must make the following determinations:</p> <p>a. The presence of the spouse will support agency mission or will substantially assist the employee in carrying out his/her official duties.</p> <p>Acceptable Example: Attendance by a spouse is expected for reasons of international protocol.</p> <p>Unacceptable Examples: Invitation is extended to the spouse.</p> <p>Others in attendance will be accompanied by their spouses.</p> <p>b. The spouse is invited to attend an awards ceremony where the employee will receive an award or honorary degree.</p> <p>c. The spouse will participate in substantive programs related to USDA policies, programs, or operations.</p>

TRAVEL - METHOD OF PAYMENT ACCEPTANCE

Background	The Agency may accept payment from a non-Federal source in the form of a check or similar instrument made payable to the Agency, or it may authorize the employee or spouse to accept payment in kind.
Permissible In Kind Payments Made Directly to Employee or Spouse	<p>After the Deciding Official approves acceptance of payment, the employee or spouse is authorized to receive the following types of payment in kind on behalf of the Agency. Examples include:</p> <ul style="list-style-type: none">• Dinner• Airline ticket• Lodging• Also permitted are checks made payable to the Agency. (Checks made payable to the Agency must be submitted to the appropriate office as soon as practical.)
Employee/Spouse	NEITHER AN EMPLOYEE NOR A SPOUSE IS AUTHORIZED TO RECEIVE CASH, A CHECK, OR A SIMILAR INSTRUMENT MADE PAYABLE TO THE TRAVELER.
Contact	If you have any ethics questions related to the acceptance of travel funds from non-Federal sources, call your Ethics Advisor or call the REE Ethics Office. If you have any travel questions, call the Travel and Relocation Services Branch, Financial Management Division, on 301-504-1270.

WITNESS TESTIMONY

Background From time to time, employees are subpoenaed or asked to provide **expert** or **factual** testimony. USDA seeks to assure that its employees are not embroiled in civil matters of no interest to the Government on official time, or in matters of interest to the Government but without its sanction. [See REE P&P 461.6, REE Employees Appearing as Witnesses in Judicial and Administrative Proceedings; Process in Suits Against the United States, which can be found at <http://www.afm.ars.usda.gov/ppweb/> for additional information.]

Definitions ADMINISTRATIVE PROCEEDING: any proceeding pending before any Federal, state, or local agency and undertaken to issue regulations, orders, licenses, permits, or to adjudicate disputes or controversies.

JUDICIAL PROCEEDING: any case or controversy pending before any Federal, state or local court.

APPEARANCE: providing testimony or documents which arise out of, or relate to, an employee's official duties. An appearance includes an affidavit, deposition, interrogatory, or other required written submission.

General Rule No employee may provide expert or factual testimony or produce documents arising out of, or relating to, Federal employment in judicial or administrative proceedings unless authorized by their Agency Administrator with the concurrence of the Chief, USDA Office of General Counsel.

Exclusions This guide does not apply to appearances as witnesses in judicial or administrative proceedings which are purely personal or do not arise out of or relate to Federal employment. These instances should be handled as personal activities and employees should request leave to honor them. It also does not apply to subpoenas for agency records, Civil Rights/Equal Employment Opportunity/Program Discrimination Complaints, and work-related testimony to House and Senate Committees.

The following chart identifies the proper office to call in these instances:

For the following:	Then contact:
Agency Records	Information Staff, Freedom of Information and Privacy Acts Office 301-504-1460 or 301-504-1655
Civil Rights/Equal Employment Opportunity/Program Discrimination Complaints	ARS: 202-720-6161 CSREES: 202-720-4423 ERS: 202-694-5000 NASS: 202-720-2707
Work-related testimony to House and Senate Committees	ARS Office of Legislative Affairs 202-720-4465 CSREES Office of Legislative Affairs 202-720-6084

Contact **Immediately upon receipt of a subpoena, immediately contact the REE Ethics Advisor on 301-504-1442.** Any employee expecting personal involvement in civil litigation through testimony or release of official records because of either their inherent expertise or official work, should immediately contact their Ethics Advisor or the REE Ethics Office.

U.S. OFFICE OF GOVERNMENT ETHICS FORMS AND PUBLICATIONS

The following publications, booklets, and pamphlets, can be found on the OGE website at the following web address:

http://www.usoge.gov/pages/forms_pubs_otherdocs/forms_pubs_other.html

[NOTE: To view and print the PDF files will require the use of Adobe's Acrobat Viewing Software. A link to download this free software is provided at the website listed above.]

PUBLICATIONS

Standards of Ethical Conduct - ADOBE Acrobat PDF in the following languages: English, Spanish, French & Portuguese

BOOKLETS

A Brief Wrap on Ethics - ADOBE Acrobat PDF file format

Do It Right - ADOBE Acrobat PDF file format

Take the High Road - ADOBE Acrobat PDF file format

PAMPHLETS

Conflicts of Interest and Government Employment - ADOBE Acrobat PDF file format

Gifts Between Employees - ADOBE Acrobat PDF file format

Gifts from Outside Sources - ADOBE Acrobat PDF file format

Gifts of Travel and Other Benefits - ADOBE Acrobat PDF file format

Rules for the Road - ADOBE Acrobat PDF file format

Smooth Sales (a beginner's guide to Certificates of Divestiture) - ADOBE Acrobat PDF file format

Understanding the Revolving Door (for seeking employment and post-employment laws & restrictions) - ADOBE Acrobat PDF file format

Principles of Ethical Conduct for Government Employees

The following general principles apply to all executive branch employees in order to establish fair and exacting standards of ethical conduct. To ensure that every citizen should have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service.

Principle		Which means . . .
1	Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain p 1	Employee loyalties go toward Federal service rather than personal benefits
2	Employees shall not hold financial interests that conflict with the conscientious performance of duty p 29	Employees cannot hold investments with businesses they interact with as part of their assigned duties
3	Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest	Specific information pertaining to the Federal Government or position shall remain confidential – it shall not be sold or released without authorization
4	An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties p 8	<ul style="list-style-type: none"> - Gifts do not include: coffee, tea, donuts; discounts available to public or all Government employees; greeting cards and plaques of minor intrinsic value - 20/50 rule - \$20 per occasion, not to exceed \$50 per year per source - Never inappropriate & frequently prudent to decline gift offered by prohibited source
5	Employees shall put forth honest effort in the performance of their duties	Receive pay for 8 (or more) hours per day, so one must perform work during those hours
6	Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government	Employees are prohibited from speaking for or obligating the government for profit for non-governmental entities
7	Employees shall not use public office for private gain p 53	Cannot use information received or developed in the course of your official duties to benefit outside financial interests

8	Employees shall act impartially and not give preferential treatment to any private organization or individual p 39	No special favors for family, friends, or business associates
9	Employees shall protect and conserve Federal property and shall not use it for other than authorized activities p 56	Internet, telephones, computers, official time, copy machine, etc. Always get supervisory permission [See REE P&P 253.4 - Use of Information Technology Resources]
10	Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities p 45	Cannot receive compensation for performing same work in non-government capacity Negotiating employment - Do not discuss potential employment doing similar work with prohibited sources while still a government employee
11	Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities	We are taxpayers as well as employees - let's not foot the bill for any abuse of principles
12	Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those-such as Federal, State, or local taxes-that are imposed by law p 73	Failure to pay off debts could be grounds for disciplinary action [See REE Bulletin 99-302, Local Travel Expenses and Emergency Salary and Travel Advances]
13	Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap	Familiarize self with all pertinent information regarding your actions. If unfamiliar, check with supervisor, Employee Relations, or designated Ethics Advisor
14	Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts	As federal employees, we must remain above reproach. Do not engage in any actions you would not want posted on the front page of the local newspaper

Related statutes. The full Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR § 2635, are available on the REE Ethics web site. In addition to the Standards of Ethical Conduct, there are conflict of interest statutes that prohibit certain conduct. Criminal conflict of interest statutes of general applicability to all employees, 18 U.S.C. 201, 203, 205, 208, and 209, are summarized in the appropriate subpart and must be considered in determining whether conduct is proper (p. 60). Because an employee is considered to be on notice of the requirements of any statute, an employees should not rely upon any description or synopsis of a statutory restriction, but should refer to the statute itself and obtain the advice of an agency ethics official as needed.

Employees' Responsibilities under Executive Order 12674 (as amended)	
DO	DO NOT
<ul style="list-style-type: none"> • Place loyalty to the Constitution, the laws, and ethical principles above private gain • Act impartially to all groups, persons, and organizations • Give an honest effort in the performance of your duties • Protect and conserve Federal property • Disclose waste, fraud, abuse, and corruption to appropriate authorities • Fulfill in good faith your obligations as citizens and pay your Federal, State, and local taxes • Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap 	<ul style="list-style-type: none"> ▸ Use non-public information to benefit yourself or anyone else ▸ Solicit or accept gifts from persons or parties that do business with or seek official action from REE (unless permitted by an exception) ▸ Make unauthorized commitments or promises that bind the Government ▸ Use Federal property for unauthorized purposes ▸ Take jobs or hold financial interests that conflict with your government responsibilities ▸ Take actions that give the appearance that they are illegal or unethical

Employees' Responsibilities under Federal Conflict of Interest Statutes	
Conflicting Financial Interests	You may not do Government work on a particular matter that could affect your financial interests or those of your spouse, minor children, general partner, or organization with which you are negotiating or have an arrangement for future or current employment. If you believe you have a conflicting financial interest contact your ethics official to determine the appropriate remedy.
Bribery and Graft	You may not seek to accept anything of value, other than your Government pay, for being influenced in your official duties.
Outside Representation or Compensation in Matters Involving Government	You generally may not represent anyone other than the Government to a federal agency or court on a particular matter involving the Government. You generally may share in any compensation derived from a representation that was made by anybody to an federal agency or court when you were a Federal employee.
Supplementation of Federal Salary	You generally may not accept any compensation from a non-Federal source for your Government work.

USDA Ethics Rules at a Glance

NOTE: The following HIGHLIGHTS are not meant to be a complete summary of the government-wide and USDA ethics regulations. They are for guidance purposes only; specific details of requirements have been omitted. If you have any specific questions, please review the regulations and the examples given in them. It's important for you to understand these standards of conduct. You should feel free to ask your supervisor or your agency ethics advisor, should you have any questions either after reviewing this material, or at any time you are confronted with an ethical problem. When in doubt, ask!

GIFTS FROM OUTSIDE SOURCES

(Subpart B - 5 CFR 2635.201-205)

As a Federal employee, you may not accept gifts from a "prohibited source," or accept gifts given because of your official position, except in certain limited circumstances discussed below. You may never solicit a gift.

"Prohibited source." A prohibited source is any person, company or organization which:

- Does business with USDA, or
- Is seeking to do business with USDA, or
- Conducts activities regulated by USDA, or
- Has interests that may be "substantially affected" by the performance or non-performance of your duties, or
- Is an organization a majority of whose members fit any of the above categories.

Non-gifts. Some things are not considered "gifts" and may be accepted. They include:

- Loans and discounts available to the public or to all Federal employees for their private use;
- Inexpensive refreshments such as soft drinks, coffee or donuts;
- Plaques, certificates, and trophies; and
- Rewards and prizes.

Exceptions. You may accept:

- A gift worth up to \$20 per occasion, up to a maximum value of \$50 from any source per calendar year.
- Gifts based on close personal relationships.
- Gifts based on outside activities or social events.

Limitations. You may never accept, even if otherwise permitted as an exception:

- Gifts in return for being influenced in the performance of your official duties;
- Gifts you solicited or coerced; and
- Gifts that are accepted so frequently that a reasonable person might question it.

Disposition. If you receive a gift not allowable under the standards, you should:

- Return it; or
- Reimburse the donor for the fair market value of the gift; or
- With your supervisor's approval, donate it to charity, destroy it, or share it with the entire office (if it's perishable, such as food).

GIFTS BETWEEN EMPLOYEES

(Subpart C - 5 CFR 2635.301-304)

Two Rules. You may not:

- Give a gift to your official superior (supervisor or anyone up the chain).
- Accept a gift from any lesser-paid employee.

Exceptions. It's OK to give or receive a gift under any one of the following circumstances:

- You may accept a gift from a lesser-paid employee who IS NOT your subordinate, AND there is a personal relationship which would justify the gift.
- The gift is for a traditional occasion such as a birthday or Christmas, and is worth \$10 or less.
- You receive food or refreshments that are shared at the office.
- A small contribution for a gift on a special occasion like a wedding, or a person leaving for a new job.
- The gift is in connection with personal hospitality, like a bottle of wine on being invited to someone's home.

CONFLICTING FINANCIAL INTERESTS

(Subpart D - 5 CFR 2635.401-403)

The rule. You may not participate in any matter, as part of your official duties, if it would have a direct and predictable effect on your financial interests. OR those of your spouse, minor child, or certain others (outside employer, general partner. etc.).

Acquiring or holding interests. You are not allowed to have any financial interests that might be a conflict of interest with your duties. If you do, it may be necessary to divest them, or disqualify yourself from certain matters. Talk to your agency ethics official for advice.

IMPARTIALITY IN PERFORMING OFFICIAL DUTIES

(Subpart E - 5 CFR 2635.501-503)

What it means. This section is about situations where your official duties could affect your own financial interests, or those of your business partner, or those of someone in your household, like your spouse or minor child.

What to do. If you're in such a situation, or one where a reasonable person might question your impartiality, don't work on that matter until you have informed your supervisor and your agency ethics official about it. Your ethics official will let you know whether you may proceed or not

SEEKING OTHER EMPLOYMENT

(Subpart F - 5 CFR 2635.601-606)

Thinking about leaving? If you're seeking employment with a person or company, or have an arrangement concerning future employment with them, then you can't participate in any matter involving that person or company as part of your official duties, if their financial interests could be affected by your performance of your duties.

MISUSE OF POSITION

(Subpart G - 5 CFR 2635.701-705)

Providing help. If your friends or relatives have any kind of dealing with USDA, you cannot use your position to try to intercede on their behalf and help them.

Endorsements. You cannot use your position to endorse any product, service or company, except where it is part of your official duties to do so (e.g., a Foreign Agricultural Service official meeting with foreign officials to promote purchase of American products).

Inside Information. You cannot use nonpublic information (information you receive in the course of your job that is not available to the general public) for the financial gain of yourself or others.

Property. Generally, government property may only be used for government purposes. This includes government buildings and real estate property, telephones, typewriters, computers (including software and hardware), equipment, supplies, copiers, government vehicles and government-issued credit or charge cards.

There are long-standing exceptions, such as brief use of the government telephone to check on children with a babysitter, or to make a long-distance call with your personal calling card.

Also, employees may make limited use of government office equipment for personal needs if the use does not interfere with official business and involves minimal cost to the Agency. Such use should occur on personal time. A supervisor or manager may revoke or limit this privilege.

There are also exceptions concerning the use of space, equipment (such as computers or copiers), and internal mail distribution systems (including e-mail) on behalf of professional associations. (See 5 CFR §251.202).

Though not technically "government property," you are prohibited from using the contractor-issued U.S. Government travel charge card for other than reimbursable travel expenses outside of your permanent duty location. You may not make personal use of any other government-issued purchase card (credit card).

OUTSIDE- ACTIVITIES

(Subpart H - 5 CFR 2635.801-809)

The rule. You cannot engage in outside employment or any outside activity if it conflicts with the official duties of your government job.

**REMEMBER: If you have any questions, ask your mission area or
agency ethics advisor!**

Supplemental Standards of Ethical Conduct For Employees of the Department of Agriculture - October 2002

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.803.

§§ 8301.101 General.

(a) In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Agriculture (Department or USDA) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

(b) In addition to 5 CFR part 2635 and this part, employees also are required to comply with the executive branch financial disclosure regulations at 5 CFR part 2634, the regulations on responsibilities and conduct contained in 5 CFR part 735, and Department guidance and procedures established pursuant to paragraph (c) of this section.

(c) With the concurrence of the Designated Agency Ethics Official (DAEO), agencies and components of the Department may, in accordance with 5 CFR 2635.105(c), issue explanatory guidance for their employees and establish procedures necessary to implement this part and part 2635 of this title. The Deputy Ethics Official for each agency or component shall retain copies of all such guidance issued by that agency or component.

§§ 8301.102 Prior approval for outside employment.

(a) Prior approval requirement. An employee, other than a special Government employee, who is required to file either a public or confidential financial disclosure report (SF 278 or OGE Form 450), or an alternative form of reporting approved by the Office of Government Ethics, shall, before engaging in outside employment, obtain written approval in accordance with the procedures set forth in paragraph (c) of this section.

(b) Definition of employment. For purposes of this section, "employment" means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities:

(1) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney; and

(2) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-Federal entity, or the provision of advice or counsel.

(c) Submission of requests for approval. An employee seeking to engage in employment for which advance approval is required shall submit a written request for approval to the employee's supervisor a reasonable time before the employee proposes to begin the employment. Upon a significant change in the nature of the outside employment or in the employee's official position, the employee shall submit a revised request for approval. The supervisor will forward written requests for approval to the agency designee through normal supervisory channels. All requests for prior approval shall include the following information:

- (1) The employee's name, organizational location, occupational title, grade, and salary;
- (2) The nature of the proposed outside employment, including a full description of the specific duties or services to be performed;
- (3) A description of the employee's official duties that relate in any way to the proposed employment;
- (4) The name and address of the person or organization for whom or with which the employee is to be employed, including the location where the services will be performed;
- (5) The method or basis of any compensation (e.g., fee, per diem, honorarium, royalties, stock options, travel and expenses, or other);
- (6) A statement as to whether the compensation is derived from a USDA grant, contract, cooperative agreement, or other source of USDA funding;
- (7) For employment involving the provision of consultative or professional services, a statement indicating whether the client, employer, or other person on whose behalf the services are performed is receiving, or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship; and
- (8) For employment involving teaching, speaking, writing or editing, the proposed text of any disclaimer required by 5 CFR 2635.807(b).

(d) Standard for approval. Approval shall be granted by the agency designee unless it is determined that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 or this part.

(e) Responsibilities of the component agencies.

- (1) The agency designee for each separate agency or component of USDA may issue an instruction or manual issuance exempting categories of employment from a requirement of prior written approval based on a determination that employment within those categories would generally be approved and is not likely to involve conduct prohibited by Federal statutes or regulations, including 5 CFR part 2635 and this part.

(2) Department components may specify internal procedures governing the submission of prior approval requests, including but not limited to: timely submission requirements; determination deadlines; appeals or reviews; and requirements for updating requests. Internal procedures also should designate appropriate officials to act on such requests. The instructions or manual issuances may include examples of outside employment that are permissible or impermissible consistent with 5 CFR part 2635 and this part. With respect to employment involving teaching, speaking or writing, the instructions or manual issuances may specify pre-clearance procedures and/or require disclaimers indicating that the views expressed do not necessarily represent the views of the agency, USDA or the United States.

(3) The officials within the respective USDA agencies or components responsible for the administrative aspects of these regulations and the maintenance of records shall make provisions for the filing and retention of requests for approval of outside employment and copies of the notification of approval or disapproval.

§§ 8301.103 Additional rules for employees of the Farm Service Agency.

(a) Application. This section applies to only to Farm Service Agency (FSA) personnel who are Federal employees within the meaning of 5 U.S.C. 2105.

This section does not apply to FSA community committee members, county committee members, and county office personnel, who are either elected to their positions or are employees of community or county committees established under 16 U.S.C. 590h. For rules applicable to FSA community committee members, county committee members, and county office personnel, see 7 CFR part 7.

(b) Definition of FSA program participant. For purposes of this section, the phrase "FSA program participant," includes any person who is, or is an applicant to become, an FSA borrower, FSA grantee, or recipient of any other form of FSA financial assistance available under any farm credit, payment or other program administered by FSA.

(c) Prohibited real estate purchases.

(1) No FSA employee, or spouse or minor child of an FSA employee, may directly or indirectly purchase real estate held in the FSA inventory, for sale under forfeiture to FSA, or from an FSA program participant.

(2) Waiver. A request for an exception to the prohibition found in paragraph (c) (1) of this section may be submitted jointly by the FSA program participant and FSA employee (whether on his or her own behalf, or on behalf the employee's own spouse or minor child), to the FSA State Executive Director. The FSA State Executive Director may grant a written waiver from this prohibition based on a determination made with the advice and clearance of the DAEO and the FSA headquarters ethics advisor that the waiver is not inconsistent with part 2635 of this title nor 7 U.S.C. §§ 1986 nor otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

(d) Prohibited transactions with FSA program participants.

(1) Except as provided in paragraph (d)(2) of this section, no FSA employee or spouse or minor child of an FSA employee may directly or indirectly: sell real property to; lease real property to or from; sell to, lease to or from, or purchase personal property from; or employ for compensation a person whom the FSA employee knows or reasonably should know is an FSA program participant directly affected by decisions of the particular FSA office in which the FSA employee serves.

(2) Exceptions. Paragraph (d)(1) of this section does not apply to:

(i) A sale, lease, or purchase of personal property, if it involves:

(A) Goods available to the general public at posted prices that are customary and usual within the community; or

(B) Property obtained pursuant to public auction; or

(ii) Transactions listed in (d)(1) of this section determined in advance by the appropriate FSA State Executive Director, after consulting with the FSA Headquarters ethics advisor, to be consistent with part 2635 of this title and otherwise not prohibited by law.

(e) Additional prior approval requirements for outside employment. Any FSA employee not otherwise required to obtain approval for outside employment under §§ 8301.102 of this part shall obtain written approval in accordance with the procedures set forth in paragraphs (c) and (d) of §§ 8301.102 before engaging in outside employment, as that term is defined by paragraph (b) of §§ 8301.102, with or for a person:

(1) Whom the FSA employee knows, or reasonably should know, is an FSA program participant; and

(2) Who is directly affected by decisions made by the particular FSA office in which the FSA employee serves.

§§ 8301.104 Additional rules for employees of the Food Safety and Inspection Service.

Any employee of the Food Safety and Inspection Service not otherwise required to obtain approval for outside employment under §§ 8301.102, shall, before engaging in any form of outside employment, obtain written approval in accordance with the procedures and standards set forth in paragraphs (c) and (d) of §§ 8301.102.

§§ 8301.105 Additional rules for employees of the Office of the General Counsel.

Any attorney serving within the Office of the General Counsel, not otherwise required to obtain approval for outside employment under §§ 8301.102, shall obtain written approval, in accordance with the procedures and standards set forth in paragraphs (c) and (d) of §§ 8301.102, before engaging in the outside practice of law, whether compensated or not.

§§ 8301.106 Additional rules for employees of the Office of Inspector General.

Any employee of the Office of Inspector General, not otherwise required to obtain approval for outside employment under §§ 8301.102, shall obtain written approval, in accordance with the procedures and standards set forth in paragraphs (c) and (d) of §§ 8301.102, before engaging in any form of outside employment that involves the following:

- (a) Law enforcement, investigation, security, firearms training, defensive tactics training, and protective services;
- (b) Auditing, accounting, bookkeeping, tax preparation, and other services involving the analysis, use, or interpretation of financial records;
- (c) The practice of law, whether compensated or not; or
- (d) Employment involving personnel, procurement, budget, computer, or equal employment opportunity services.

REE Employees should complete form REE-101, Application for Approval to Engage in Non-Federal Employment or Activity, located on the Ethics Forms page on the REE Ethics website at: <http://www.afm.ars.usda.gov/hrd/ethics/ethicsforms.htm>

**DEPARTMENT OF AGRICULTURE
HUMAN RESOURCES MANAGEMENT
EMPLOYEE RESPONSIBILITIES AND CONDUCT
PERSONNEL BULLETIN: 735-1**

Subpart A — General Provisions.

735-101 Definitions.

- (a) "Agency" means a constituent Agency of the U. S. Department of Agriculture.
- (b) "Agency Head" means the Administrator or Chief of an Agency.
- (c) "Department" means the United States Department of
- (d) "Mission Area" means those components of the Department that report to an individual Under Secretary of Agriculture or to an individual Assistant Secretary of Agriculture.

735-102 Redelelegation.

Unless otherwise stated, any authority delegated in this Issuance may be redelegated to a level of management that has the experience and/or training to administer the delegation.

735-103 Informing employees.

- (a) Within 90 days of publication of this Issuance or subsequent changes to it, Agencies will issue each employee a copy.
- (b) Each new employee shall be furnished, at the time of hiring, a copy of this Issuance.
- (c) With his/her copy of this issuance, each employee will receive notification where to direct any questions about the issuance.

735-104 Mission Area supplementation.

With prior approval of the office of the Designated Agency Ethics Official, Mission Areas may supplement this Issuance as to substance and procedure. Mission Area supplemental regulations may be more restrictive. Mission Areas shall furnish employees copies of regulations that supplement this Issuance on the same basis employees are furnished copies of this Issuance as required in Section 735-103 (a), (b), and (c).

Subpart B — Conduct and Responsibilities of Employees

735-201 Prohibited conduct - general.

Employees are prohibited from:

(a) Engaging in criminal, infamous, dishonest, immoral, or disgraceful conduct, or other conduct prejudicial to the Government;

(b) Conducting, or participating in, any gambling activity including the operation of a gambling device, conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket while on Government-owned or leased property or while on duty for the Government. This does not preclude activities:

(1) Necessitated by an employee's law enforcement duties; or

(2) Under section 7 of Executive Order 12353, permitting solicitations conducted by organizations composed of employees among their own members for organizational support or for the benefit of welfare funds for their members.

(c) Engaging in teaching, lecturing, or writing, with or without compensation, for the purpose of the preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service that depends on information obtained as a result of the employee's Government employment. This does not preclude such teaching, lecturing, or writing if:

(1) Prior written authorization is obtained from a Mission Area ethics official;

(2) Such teaching, lecturing, or writing is not performed at or for any educational institution or other organization that discriminates because of race, creed, color, sex, religion, age, national origin, or physical or mental disability, in the admission or subsequent treatment of students;

(3) The information upon which the preparation is based has been made available to the general public or will be made available on request; and

(4) Such preparation is authorized in writing by the Director of the Office of Personnel Management or his or her designees, or by the Director General of the Foreign Service or his or her designees, as applicable.

(d) Using an intoxicating beverage on Government-owned or leased property (except when authorized by the Office of Operations for the Washington, D.C., complex; or by the Agency Head or designee in field locations owned by the Department; or by the Agency Head or designee in field locations leased by the Department or controlled by the General Services Administration [GSA], upon concurrence by the lessor or the appropriate GSA official); or transporting or using an intoxicating beverage in a Government-owned or leased vehicle;

(e) Harassing employees by word or action, or knowingly making false accusations against employees;

(f) Monitoring telephone conversations, recording telephone conversations by device, or authorizing or permitting others under their administrative control to monitor telephone conversations or record telephone conversations by device, except:

(1) As authorized by the Inspector General or his/her designee, with the prior consent of one party to a telephone conversation and when necessary in a criminal investigation;

(2) When all parties agree in advance; or

(3) When supervisors monitor or record telephone-bank or similar operations for the purpose of evaluating performance of employees.

(g) Utilizing any device to monitor or record nontelephone conversations, except:

(1) As authorized by the Inspector General or his/her designee with the prior consent of one party to a nontelephone conversation and when necessary in a criminal investigation; or

(2) When all parties agree in advance.

(h) Canvassing for sales, or selling, any article (including but not limited to candy or other items for schools or charities; kitchenware or other home furnishings; paper products; cosmetic products; or any other items whatsoever) in person or by distributing or posting literature, advertising matter, or any other graphic matter, in or on Government-owned or leased property, or property occupied by the Department;

(i) Engaging in coercive or repeated unsolicited and unwelcome verbal comments, gestures, or physical contacts of a sexual nature or by using implicit or explicit coercive sexual behavior in the process of conducting agency business, or to control, influence, or affect the career, salary, or job of an employee;

(j) Failing to take appropriate action on complaints or proven acts of sexual harassment, if a supervisor or manager who knew or should have known of those acts;

(k) Displaying discourtesy or disrespect to a coworker, another Federal employee, or a member of the public when acting in an official capacity;

(1) Failing to wear or use specified safety equipment, or failing to report obvious unsafe conditions, while on official duty; or

(m) Making threats against other employees or members of the public.

735-202 Foreign gifts.

Pursuant to the Foreign Gifts and Decorations Act, the acceptance by an employee of a gift, present, decoration, or other thing from a foreign government or agent thereof (including an international organization whose membership includes a unit of foreign government or any agent of a foreign government) is subject to the following conditions:

(a) An employee may not request or otherwise encourage the tender of a decoration or gift (including travel and travel expenses);

(b) An employee may accept and retain a gift that is tendered and received as a souvenir or a mark of courtesy if the gift has a retail value in the United States, at the time of acceptance, less than an amount established by the U.S. Department of State;

(c) An employee may accept a gift of more than an amount established by the U.S. Department of State:

(1) when such gift is in the nature of an educational scholarship or medical treatment; or

(2) when it appears that to refuse the gift would likely cause offense or embarrassment, or would otherwise adversely affect the foreign relations of the United States; or

(3) when in the form of travel or expenses for travel entirely outside the United States, provided the employee obtains prior approval for the acceptance of the travel or expenses for travel from the head of the employing Agency or his or her designee; or

(4) when the employee pays the appraised value of the gift plus the cost of appraisal in accordance with the regulation at 41 CFR Part 101-49;

(d) The acceptance of a tangible gift of more than the amount determined by the U.S. Department of State (\$225) is deemed to have been accepted on behalf of the United States, becomes the property of the United States, and must be deposited by the employee within 60 calendar days with his or her employing Agency's property management officer with a statement showing:

(1) Name and position of the employee accepting the gift

(2) Brief description of the gift and the circumstances justifying acceptance;

(3) Identity, if known, of the foreign government and name and position of the individual who presented the gift;

(4) Date of acceptance of the gift;

(5) Estimated value in the United States of the gift at time of acceptance; and

(6) Disposition and current location of the gift.

e) If the employee accepted a gift for travel or travel expenses, the employee must file a statement with his or her employing Agency Head within 30 calendar days after acceptance stating:

(1) Name and position of the employee accepting the gift;

(2) Brief description of the gift and the circumstances justifying acceptance; and

(3) Identity, if known, of the foreign government and name and position of the individual who presented the gift;

(f) An employee may accept, retain, and wear a foreign decoration if tendered in recognition of active field service or unusually meritorious service and if supported by a statement from the donor, preferably in the form of a citation, which shows the basis for tender of the award. A request from the head of the employing Agency for approval of the acceptance of the decoration will be forwarded to the Administrator of the Foreign Agricultural Service (FAS) or his or her designee for concurrence or disapproval. The request from the employing Agency must contain a recommendation as to whether or not the acceptance, retention, and wearing of the foreign decoration by the employee would be in the best interest of the United States. The Administrator of the FAS shall notify the employing Agency of his or her concurrence or disapproval of the retention of the foreign decoration. Disapproval by the FAS shall constitute acceptance on behalf of the United States, and the decoration shall be deposited by the employee with the Agency's Property Management Officer within 60 calendar days of the acceptance. The Property Management Officer shall report the decoration, as required by the Agriculture Property Management Regulations;

(g) Violation of the provisions of the Foreign Gifts and Decorations Act, including the failure by an employee to report such a gift, may result in a civil penalty against the employee for the retail value of the gift plus \$5,000; and

(h) The definition of "employee" for purposes of the Foreign Gifts and Decorations Act includes all employees of the Department, experts or consultants under contract with the United States, spouses of all such individuals, and blood and in-law relations who are residents of the employee's household.

735-203 Attendance and leave.

(a) Employees must observe designated duty hours and be punctual in reporting for work and returning from lunch periods. Tardiness can result in employees being placed in a nonpay status for unauthorized absence (Absence Without Leave [AWOL]) and being subject to discipline or adverse action.

(b) Employees normally must obtain advance authorization for absence from duty. Approval of leave is a discretionary matter reserved to the supervisor. The taking of leave is not a right afforded to an employee, but is conditioned on the needs of Department service. Where absence from duty results from illness or an emergency, employees are required to notify their supervisor or other appropriate person as soon as possible. When an employee fails to notify properly his or her supervisor, an absence may be charged as unauthorized absence (Absence Without Leave [AWOL]). An employee charged with AWOL may be subject to disciplinary or adverse action.

(c) Sick leave is administered in accordance with 5 CFR Part 630, Subpart D (including the Federal Employees Family Friendly Leave Act, Public Law 103-388, dated October 22, 1994), and covers a situation in which an employee:

- (1) Receives medical, dental, or optical examination or treatment;
- (2) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
- (3) Provides care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment;
- (4) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member; or
- (5) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.
- (6) Family member includes the following relatives of the employee:
 - (i) Spouse, and parents thereof;
 - (ii) Children, including adopted children and spouses thereof;
 - (iii) Parents;
 - (iv) Brothers and sisters, and spouses thereof; and
 - (v) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

735-204 Sale of personal property.

- (a) Personal property offered for sale by the Department may be purchased by employees only when the sale of such property is based upon competitive bids.
- (b) Except as provided in paragraph (c) of this section, no purchase of personal property offered for sale by the Department may be made by an employee who:

(1) was formerly accountable for the property;

(2) formerly used the property; or

(3) was in any way connected with its condemnation, declaration as excess, or sale.

(c) The prohibitions in paragraph (b) of this section do not apply in the following situations:

(1) Surplus perishable products may be sold to employees at the best price obtainable in quantities not exceeding the needs of their immediate households; and

(2) Special clothing and other articles or personal equipment purchased for the exclusive use of and fitted to an individual employee may, when not otherwise usable by the Department and in all respects surplus to the needs of the Government, be sold to such employees at the best price obtainable in the event of his or her separation from the Department or permanent assignment to duties not requiring such clothing or equipment.

735-205 Use of government vehicles.

(a) An employee shall not, unless he or she has been specifically authorized by the Agency: store Government owned or leased motor vehicles at or near his or her private residence or at other unauthorized locations, including, but not limited to, homes of relatives or friends.

(b) Employees are required to wear seat belts whenever riding — as operator or as passenger — in a truck, automobile, or other passenger vehicle in the performance of official duties or while on official time.

(c) Unless authorized to do so in the performance of official duties, employees are prohibited from using Government owned or leased vehicles to transport firearms or explosives.

735-206 Activities with regard to farm organizations.

(a) Department employees shall refrain from participating actively in meetings and in other activities concerned with the establishment of general or specialized farm organizations, or with recruiting members for existing organizations such as the National Grange, the American Farm Bureau Federation, the National Farmers Organization, the Farmers Union, the National Association of Conservation Districts, the National Rural Electric Cooperative Association, the National Council of Farmer Cooperatives, and Breed and Commodity Organizations. Department policy is to deal fairly and on the same basis with all such organizations. As a continuation of that policy, Department employees shall not, with respect to any general or specialized farm organization:

- (1) Hold any functional office, including financial or business agent, in the organization;
- (2) Advocate that the organization is better adapted for carrying out the work of this Department than any individual citizen, group of citizens, or organizations;
- (3) Advocate that the responsibilities of any Agency of the Department or any other Federal agency should be carried out through the organization; or
- (4) Advocate or recommend that any State or local agency should carry out its responsibilities through the organization.

(b) The restrictions set forth in paragraph (a) of this section do not:

- (1) Apply to members of County Committees of the Department;
- (2) Apply to organizations such as cow testing associations and similar groups; or
- (3) Prohibit employees from participating in the organization of groups that are needed in carrying out Federally authorized programs, for example, a National Rural Electric Cooperative Association or similar group determined by the appropriate agency head to be essential in effectuating Federally authorized programs.

735-207 Prohibitions on employees serving abroad.

An employee on foreign assignment may not:

- (a) Violate Department of State regulations governing the post to which he or she is assigned;
- (b) Receive a "profit" from the sale of his or her personal car or other property when such "profit" accrues from import privileges granted him or her by reason of his or her official status. "Profit" for the purposes of this paragraph is as defined in the Department of State regulations or directives governing the post of assignment;
- (c) Engage in political activities in the country of assignment;
- (d) Violate the laws of the country in which he or she is assigned;
- (e) Have an interest in any business enterprise or engage in any profession in any country to which assigned; or

(f) Speculate in real estate, bonds, stocks or shares (or the equivalent), or currencies of a country to which the employee is assigned or a country for which the employee is responsible.

735-208 Miscellaneous provisions.

(a) Any money, property, or other thing of value received by or coming into custody of an employee in connection with the discharge of his or her duties must be accounted for, deposited, or otherwise disposed of in accordance with established procedures.

(b) Employees are required under Section 5.3 of Civil Service Rule V (5 CFR 5.3) to give the Office of Personnel Management (OPM) and its authorized representatives all information and testimony in regard to matters arising under laws, rules, and regulations administered by OPM;

(c) Employees are obligated to give information they possess to authorized representatives of the Department or Mission Area or Agency when called upon, if the inquiry relates to official matters and the information is obtained in the course of employment or as a result of relationships incident to such employment. This shall include the furnishing of a signed, sworn/affirmed statement. Failure to respond to requests for information or to appear as a witness in an official proceeding may result in consideration of disciplinary action. (Nothing herein shall be deemed to infringe upon an employee's right to invoke the protection of the Fifth Amendment to the Constitution with respect to self-incrimination in a criminal investigation.)

(d) Mission Area and Agency officials have the authority to transfer, detail, and reassign employees whenever necessary to meet operational needs. Employees have an obligation to accept transfers, details and changes in assignment. Failure to accept a transfer, detail, or reassignment may result in the separation of the employee.

(e) Employees shall not purchase products or receive services directly or indirectly from persons, firms, or establishments for which employees conduct inspection, grading, or similar regulatory activities without express approval. Each Agency shall establish the approval level and shall advise each employee. Agencies shall utilize the following criteria in granting such approvals:

(1) Proximity of the employee to other retail outlets;

(2) The number of retail outlets in the commuting area;

(3) Whether the outlet is a sole source;

(4) Whether the firm is selling the item or service at the prevailing price to the general public as well as the employee;

(5) Whether the outlet is open to the general public.

735-209 Computers.

Unless employees have specific authorization, they are prohibited from accessing any Department or Federal Government electronic, laser, or magnetic system of storing information, or computer software, not expressly identified for public or general access. This prohibition includes, but is not limited to, computers of all types, floppy diskettes, compact or laser disks, and magnetic tapes. Employees are subject to discipline or adverse action regardless of whether they use, damage, or make alterations to, the stored information.

735-210 Retaliation and reprisal.

No employee may retaliate against another, by word or action: for filing complaints about safety problems; for filing grievances under either the negotiated or administrative grievance systems; for filing complaints of discrimination; for assisting the investigators of the Department, Mission Areas, or Agencies; or for engaging in any other protected activity.

735-211 Reporting misconduct.

Each employee of the Department is required to report actions by other employees that he or she knows, or has a reasonable basis to believe, are violations of law or regulation. A report must be made to any appropriate office or official. Violations include, but are not limited to:

- (a) Fraud, waste, and abuse of Government resources;
- (b) Criminal activity of any kind;
- (c) Violations of Federal personnel rules;
- (d) Sexual harassment; and
- (e) Prohibited personnel practices.

735-212 Miscellaneous statutory provisions.

- (a) The attention of each employee is directed to the following statutory provisions:

(1) The prohibition against any inspector, deputy inspector, chief inspector, or other officer or employee of the Department authorized to perform any of the duties prescribed by Title 21 United States Code, Chapter 12 ("Meat Inspection"), Subchapter I ("Inspection Requirements; Adulteration and Misbranding"), accepting any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or receiving or accepting from any person, firm, or corporation engaged in commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever (violations are felonies to be punished, upon conviction, by summary discharge from office, by fine of not less than \$ 1, 000 nor more than \$10,000, and by imprisonment for not less than one year nor more than three years) (12 U.S.C. 622). In accordance with a memorandum of understanding between the Secretary of Agriculture and the Attorney General, the following circumstances either have no prosecutive merit and are not required to be reported to the Department of Justice or do not constitute acceptance of a thing of value:

(i) An exchange of social gifts in an obvious family or personal relationship (such as those between the employee and parents, spouse, children or close personal friends of the employee) when the circumstances make it clear that it is those relationships rather than the business of the other party which are the motivating factors;

(ii) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as automobile and home mortgage loans;

(iii) Acceptance of unsolicited advertising or promotional material of clearly trivial value, such as: pens, pencils, note pads, calendars, and other things of nominal value (acceptance of gifts, such as meat products, alcoholic beverages, fruit baskets, boxes of candy, wallets, jewelry, and cufflinks is, however, strictly prohibited);

(iv) Exchange of customary social courtesies which are wholly free of any embarrassing or improper implications, and which are of trivial value (e.g., a soft drink or cup of coffee); and

(v) Acceptance of food and refreshments of nominal value on infrequent occasions when the interest of the Government is served by participation of Department employees in industry-sponsored activities at which a luncheon or dinner may be served, and where the discussion of matters of mutual interest to the Government and industry will take place.

(2) The prohibition against a person licensed or authorized to perform any official function under the U.S. Grain Standards Act, or employed by the Department to carry out the provisions of the Grain Standards Act, being financially or otherwise interested in an entity owning or operating a grain elevator or warehouse or engaging in the merchandising of grain, or being employed by or accepting gratuities from any such entity (7 U.S.C. 87(a)).

(3) The prohibition against the unauthorized release of information, as specified in the Packers and Stockyards Act (7 U.S.C. 222).

(4) The prohibition against the release of information in an employee's possession concerning cotton standards, estimates, tests, and analysis unless authorized by the Secretary (7 U.S.C. 472).

(5) The prohibitions against the release of information acquired from parties to any marketing agreement and from handlers subject to marketing agreement orders, except as authorized by the Secretary for the purposes of suit or administrative hearings (7 U.S.C. 608d(2)).

(6) The prohibition against persons administering activities concerned with cotton option contracts and commodity benefits as provided by the Agricultural Adjustment Act, speculating in agricultural commodities or products to which such contracts or benefits apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation handling such commodities or products (7 U.S.C. 610(g)).

(7) Limitations on the use or availability of information furnished in connection with marketing agreements and orders (7 U.S.C. 610(i)).

(8) Restrictions on the availability of information furnished in connection with marketing agreements and orders, and applicable to marketing agreements for anti-hog-cholera serum and hog-cholera virus (7 U.S.C. 855).

(9) Restrictions on the use and publication of information furnished in connection with the collection of peanut statistics (7 U.S.C. 955).

(10) Restrictions on the disclosure of information furnished in connection with tile establishment and adjustment of farm marketing quotas except as authorized by the Secretary for the purpose of suit or administrative hearing (7 U.S.C. 1373(c)).

(11) The prohibition against an officer or employee being the beneficiary of or receiving any fee, commission, or gift for or in connection with any transaction or business under the Consolidated Farm and Rural Development Act other than such salary, fee, or compensation as he or she may receive as an officer or employee. In addition, members of a County Committee are prohibited from making any certification with respect to a loan to purchase any land in which they or any person related to them have any financial interest (7 U.S.C. 1986).

(12) The prohibition against unauthorized release of information relating to the production and marketing of cotton (7 U.S.C. 2105(c)).

(13) The prohibition against unauthorized release of information relating to plant variety protection (7 U.S.C. 2426).

(14) The prohibition against unauthorized release of information relating to the production and marketing of eggs (7 U.S.C. 2706(c)).

(15) The prohibition against the unauthorized prediction as to cotton prices in a Governmental publication (12 U.S.C. 1141j(d)).

(16) The prohibition against the making of false statements in connection with activities of the Commodity Credit Corporation or embezzlement or conversion of anything of value belonging or pledged to the Corporation, or conspiring to commit such acts (15 U.S.C. 714m).

(17) The prohibition against the acceptance of any fee, gift, or other consideration for compromise, adjustment, or cancellation of farm indebtedness (18 U.S.C. 217).

(18) The prohibition against embezzlement of the money or property of the Federal Crop Insurance Corporation, the Rural Development Administration, or the Farmers Home Administration, and of pledged or entrusted property (18 U.S.C. 657).

(19) The prohibition against the conversion of property mortgaged or pledged to the Farmers Home Administration, the Rural Development Administration, or the Federal Crop Insurance Corporation with intent to defraud (18 U.S.C. 658).

(20) The prohibition against making, with intent to defraud, false entries or in participating in any benefit through any transaction in connection with Departmental activities concerned with agricultural loans (18 U.S.C. 1006).

(21) The prohibition against making false statements or reports, or of willfully overvaluing land, property, or security to influence action in connection with agricultural loans (18 U.S.C. 1014).

(22) The prohibition against willful disclosure of official information which might influence or affect the market value of crops prior to authorized publication. An employee acquiring, by reason of his or her employment, information as to the market value of agricultural crops, which information is required to be withheld, is prohibited from speculating in such product (18 U.S.C. 1902).

(23) The prohibition against speculating in agricultural commodities to which the Federal Crop Insurance Act applies or in contracts relating to those commodities, or in the stock or membership interests of corporations or associations handling those commodities, by any person administering the Act (18 U.S.C. 1903).

(24) The prohibition against the compilation or issuance of false crop reports (18 U.S.C. 2072).

(25) The prohibition against any person using information to his or her own advantage or improperly revealing information concerning trade secrets acquired under the Poultry Inspection Act (21 U.S.C. 458).

(26) The prohibition against the use of information obtained in the course of employment to speculate or to aid another in speculating on any commodity exchange (50 U.S.C. App. 2160(f)).

(27) The prohibition against the knowing possession or the causing to be present of firearms or other dangerous weapons in a Federal facility (a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties) and a Federal court facility (18 U.S.C. 930).

(28) The prohibition against willfully using or authorizing the use of a passenger motor vehicle or aircraft owned or leased by the United States Government for other than an official purpose, with mandatory penalty of suspension for at least one month, and when circumstances warrant, for a longer period or summary removal from office (31 U.S.C. 1349(b)).

(29) The prohibition against any employee who has authority to take, direct others to take, recommend, or approve any personnel action:

(i) Discriminating on the basis of race, color, religion, sex, age, national origin, handicapping condition, marital status, or political affiliation;

(ii) Soliciting or considering employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;

(iii) Coercing the political activity of any person;

(iv) Deceiving or willfully obstructing any person from competing for employment;

(v) Influencing any person to withdraw from job competition for the purpose of improving or injuring the prospects of any other person for employment;

(vi) Granting any preference or advantage not authorized by law, rule, or regulation to improve or injure the prospects of any particular person for employment;

(vii) Engaging in nepotism (hiring, promoting, or advancing relatives);

(viii) Taking reprisal for whistleblowing;

(ix) Taking reprisal for the exercise of an appeal right;

(x) Discriminating based on personal conduct which is not adverse to the performance of the employee, applicant or others; or

(xi) Violating any law, rule or regulation implementing or directly concerning merit system principles (5 U.S.C. 2302(b)).

(b) Other statutes applicable to employees are listed by the Office of Government Ethics in the "Standards of Ethical Conduct for Employees of the Executive Branch" at 5 CFR 2635.902.

CRIMINAL STATUTES FOR ETHICS VIOLATIONS:

Title 18 United States Code

Violations of Title 18 carry potential fines, imprisonment, or both for all Federal employees regardless of their title, series, or grade.

Full text of each citation can be found on the U.S. Office of Government Ethics website at: http://www.usoge.gov/pages/laws_regs_fedreg_stats/statutes.html

Citation	Statute
18 U.S.C. § 201	Bribery of public officials and witnesses
18 U.S.C. § 202	Definitions
18 U.S.C. § 203	Compensation to Members of Congress, officers, and others in matters affecting the Government
18 U.S.C. § 204	Practice in United States Claims Court or the United States Court of Appeals for the Federal Circuit by Members of Congress
18 U.S.C. § 205	Activities of officers and employees in claims against and other matters affecting the Government
18 U.S.C. § 206	Exemption of retired officers of the uniformed services
18 U.S.C. § 207	Restrictions on former officers, employees, and elected officials of the executive and legislative branches
18 U.S.C. § 208	Acts affecting a personal financial interest
18 U.S.C. § 209	Salary of Government officials and employees payable only by the United States
18 U.S.C. § 216	Penalties and injunctions
18 U.S.C. § 218	Voiding transactions in violation of chapter; recovery by the United States
18 U.S.C. § 219	Officers and employees acting as agents of foreign principals

NOTES

